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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,129	10/04/2001	Arthur Gelber	840-008.002	3661

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WARE FRESSOLA VAN DER SLUYS &  
ADOLPHSON, LLP  
BRADFORD GREEN, BUILDING 5  
755 MAIN STREET, P O BOX 224  
MONROE, CT 06468

EXAMINER
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COBANOGLU, DILEK B

ART UNIT	PAPER NUMBER
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3626

MAIL DATE	DELIVERY MODE
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03/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/972,129	<b>Applicant(s)</b> GELBER, ARTHUR	
	<b>Examiner</b> Dilek B. Cobanoglu	<b>Art Unit</b> 3626	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 28 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: none.  
 Claim(s) objected to: none.  
 Claim(s) rejected: 1-18.  
 Claim(s) withdrawn from consideration: none.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

  
 JOSEPH THOMAS  
 SUPERVISORY PATENT EXAMINER

Continuation of 3: The proposed amendments change the recitation of "generating a patient benefits plan at the service provider/medical facility location" by adding "as defined by provisions for payment coverage under a corresponding contract for the patient" and "generating a preliminary EOB" by adding "prior to submission for payment by a designated payer" change the scope of the claims from that previously presented, and require further search and consideration.

Continuation of 11: In response to Applicant's argument about Provost does not teach "carrying out the insurer's adjudication process to pre-adjudicate the patient's claim for benefits", Examiner respectfully submits that this limitation is not recited in the claims.

In response to Applicant's argument about Provost does not teach issuing a preliminary EOB, Examiner respectfully submits that Provost teaches the remote server informs the client computer of the patient eligibility status in col. 3, lines 52-55 and lines 58-63, and Examiner considers the information about the patient eligibility status is an explanation of benefits.

In response to Applicant's argument about Provost does not teach "processing insurer data that is reflected in the insurer's EOB to pre-adjudicate the patient's claim for benefits", Examiner respectfully submits that this limitation is not recited in the claims.

In response to Applicant's argument about "submitting a pre-adjudicated claim to a designated payer in accordance with the patient benefit plan because it does not include the insurer's adjudication process", Examiner would like to submit that claim 1 recites "submitting the pre-adjudicated claim to a designated payer in accordance with the patient benefit plan" and Provost teaches client computer receives a patient's eligibility status data, which includes data such as the types of diagnoses that payment will be made (col. 3, lines 58-63), then the technician fill out the form (pre-adjudication claim), entering diagnosis codes and submits it (col. 3, line 66 to col. 4, line 3).

All other arguments appear to be directed to features that have not been entered as of the present communication, and are therefore moot.